IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2915 of 2007()

CRMP.4034/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, PUNALUR

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PETITIONER: ACCUSED

JAYAMOHANAN @ MOHANAN, S/O. RAGHAVAN,
MARUTHIMOOTTIL VEEDU, EDAMON MURI,
EDAMON VILLAGE, PATHANAPURAM TALUK.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
EXCISE INSPECTOR, PATHANAPURAM EXCISE RANGE,
(CRIME NO.9 OF 2006), REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2915 of 2007

Dated this the 18th day of September 2007

O R D E R

The petitioner was granted bail by the learned Magistrate subject to conditions. He faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 2000 litres of wash. As chargesheet was not filed within the stipulated period of time, the learned Magistrate proceeded to grant bail to the petitioner under the proviso to Section 167(2) Cr.P.C. Conditions were imposed. Bail was granted as per order dated 10/9/2007. The petitioner is aggrieved by one of the conditions imposed, that is condition No.3 which reads as follows:

> "Accused shall execute bond of Rs.25,000/- together with two solvent sureties for the like sum in addition accused depositing cash security of Rs.10,000/- before court.

2. The learned counsel for the petitioner submits that the insistence on deposit of a cash security of Rs.10,000/- hurts the petitioner and because of the nature of the said condition, the petitioner has not been able to take advantage of the order granting bail and get himself released from custody. It is, in these circumstances, prayed that the said condition No.3 may now be deleted.

3. Notice was given to the learned Public Prosecutor. There is no opposition against the modification of the condition regarding deposit. The learned Public Prosecutor submits that in the nature of the alleged culpable conduct, appropriate security may be insisted by this court.

4. Having considered all the relevant inputs, I am satisfied that the said condition No.3 can be modified. Appropriate safeguards can of course be insisted.

5. In the result, this petition is allowed. The said condition No.3 is modified. In supersession of the said condition, it is directed that the petitioner/accused shall execute a bond for Rs.75,000/- (Rupees seventy five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. The condition that the petitioner must deposit cash security of Rs.10,000/- is deleted. All other conditions shall continue to remain in force.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007